

REMARKS

Initially, the under-signed attorney for Applicant wishes to apologize for the duplicated entries in the Information Disclosure Statements of March 8 and May 20, 2004. Applicant appreciates the careful review of these statements by the Examiner and will take extra care in preparing such statements in the future.

Claims 1-22 are pending, including independent claims 1, 8, 10, 12, 14, 15, and 20-22.

Claims 1, 2, 5, 15, 16 and 18 were again rejected under 35 U.S.C. § 102 as being anticipated by the "Ebay Publication".

Regarding claim 1, the Examiner identified the Featured Auction option of the Ebay Publication as being relevant. This document states that the fees incurred for selling on eBay include an Insertion Fee and a Final Value Fee (p. 7). The Insertion Fee for a listing varies according to the type of item, the type of auction, the value of the opening/ minimum bid, and any listing options that are selected (pp. 7-8). For a Featured Auction, the additional option fee is \$99.95. The Final Value Fee for a listing varies according to the type of item, the type of auction, the value of the high bid, and the bid activity (pp. 8-9).

As the Examiner noted, it appears that a Featured Auction will automatically appear at the top of the listings. Thus, there is no mechanism in the Ebay Publication to compare the total fee attributable to a Featured Auction listing versus the total fee attributable to another listing. Moreover, depending on the item, type of auction, etc., the total fee attributable to another listing may be greater than the total fee attributable to the Featured Auction listing. Thus, the Ebay Publication does not describe comparing estimated revenues of the offerings and ranking the offerings "to increase income received by" the ranking entity, as recited in claim 1.

Claim 1 has been amended to clarify this distinction. Claim 1 now recites that each offering has associated with it an estimated revenue, and the estimated revenues are compared in order to rank the offerings so as to increase the income to the ranking entity. In addition, claim 1 has been amended to include the contents of dependent

claims 2-4 (now canceled), which specify that an estimated revenue of an offering involves estimating the likelihood that a user will select the offering and calculating a selection revenue corresponding to revenue received by the first entity when a user selects the offering. These features also are not described or suggested in the Ebay Publication. Therefore, Applicant submits that the method of claim 1, as amended, clearly is not described in or suggested by the Ebay Publication, and requests the Examiner to withdraw the rejection of claim 1.

Independent claim 15 has been amended in similar fashion as claim 1, and claims 16-17 have been canceled. Applicant submits that claim 15 is patentable for the same reasons explained above for claim 1. Similarly, because claims 5 and 18 depend from claims 1 and 15, respectively, these claims are patentable for at least the same reasons. Moreover, claims 5 and 18 add the feature that the estimated revenues associated with the offerings include (in addition to the selection revenue) a purchase commission that the first entity receives when a user makes a purchase from the offering. The Ebay Publication does not describe or suggest the use of a purchase commission that is part of an estimated revenue that is used to compare and rank offerings.

Claims 3, 4, 6-14, 17 and 19-22 were rejected under 35 U.S.C. § 103(a) as being obvious over the Ebay Publication in view of U.S. Patent No. 5,664,115 ("Fraser"). Independent claims 8, 10, 12, 14 and 20-22 have been amended like claim 1 to recite that estimated revenues of the offerings, hyperlinks, or referrals are compared in order to rank them. Therefore, these claims likewise distinguish over the applied art because the Ebay Publication does not compare expected revenues of multiple offerings, hyperlinks, or referrals and rank them so as to increase income received by the ranking entity.

In addition, Applicant continues to believe that Fraser is not applicable. Fraser is directed to an interactive system for matching buyers and sellers of real estate, businesses and other property using the Internet (see title, Abstract). The preferred embodiment addresses the sale of real estate. The Examiner asserts that Fraser

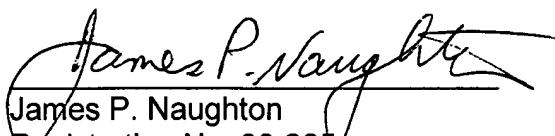
teaches a “purchase likelihood.” Applicant believes Fraser is describing a financial evaluation of whether the potential buyer can afford a particular property. The Examiner agrees, but asserts that Fraser also determines whether a buyer will likely make the purchase. Applicant disagrees. Fraser does not describe or illustrate any buyer information or algorithm that is used to calculate an actual likelihood or probability of purchase. Rather, Applicant submits that Fraser simply uses the phrase “likelihood to purchase” as a synonym for “ability to purchase.”

In any event, there is no suggestion or motivation to combine the two references as the Examiner suggests. The Ebay Publication does not compare expected revenues and rank listings accordingly, so there certainly is no motivation to use any “purchase likelihood” from Fraser to conduct any such comparison and ranking. Conversely, whatever the “purchase likelihood” in Fraser means, it is not used to conduct any comparison or ranking among offered properties. Further, like claims 5 and 18 discussed above, claims 6, 7, 10-14, 19, and 22 describe an estimated revenue that is based on at least two factors, a selection revenue (e.g., a cost-per-click) and a purchase commission. This feature also is not described in or suggested by the Ebay Publication or Fraser.

Finally, Applicant respectfully submits that the Examiner’s argument in support of combining the references (“because determining the likelihood of a user’s desire to purchase a product will allow the selling entity to more efficiently display items for purchase to the potential buyer”) is a circular argument that is not supported by the references. The subjects of the two references are very different, and nothing in either reference suggests the proposed combination. On the other hand, the only source of motivation for the combination is Applicant’s present application. Without the influence of the teachings of the present application, there is no suggestion in the prior art to combine the references so as to result in Applicant’s claimed invention.

In summary, Applicant submits that the claims, as amended, are patentable over the cited references, and Applicant respectfully requests reconsideration and allowance of this application. If the Examiner still believes the application is not in condition for allowance, he is invited to call Applicant's undersigned attorney at 312-321-4723 to discuss any remaining issues.

Respectfully submitted,



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